IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10461 of 2005
To
SPECIAL CIVIL APPLICATION No. 10469 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE KSHITIJ R.VYAS

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NAIRANCHHODBHAIMANILAL & 8 - Petitioner(s)

Versus

COLLECTOR & 1 - Respondent(s)

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Appearance :
MR UA TRIVEDI for Petitioner(s) : 1 - 9.
GOVERNMENT PLEADER for Respondent(s) : 1,
MR MEHUL SHARAD SHAH for Respondent(s) : 2,
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CORAM : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS
and
HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 04/10/2005

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA)

(Per : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA)

Mr. Umesh Trivedi ld. Advocate seeks leave to join Chief Officer, Mehsana Area Development Authority, as party respondent no. 3. Otherside has no objection. Hence, leave to join MADA as respondent no. 3 is granted.

Rule. Mr. Mehul Sharad Shah ld. Advocate waives service of rule on behalf of respondents no. 2 and 3. Mr. PR Abichandani ld. AGP waives service of rule on behalf of respondent no. 1.

In this petition, the say of the petitioners is that the properties which they are occupying, are situated on a private land and they do not cause any hindrance in smooth flow of traffic. Despite that the respondent-authority has decided to take action to remove the petitioners from the said place. At the time of filing of the petition, the notice was not served on the petitioners by the concerned authority calling upon them to show cause why he should not be evicted from the place. That was the main contention raised in the petition, but, subsequently it appears that the notice has been served upon the petitioners by newly added

respondent no. 3 i.e. MADA dated 4.7.2005 under the provisions of Sec. 36 of the Gujarat Town Planning Urban Development Act, 1976. When such notice is issued to the petitioners, they can always file reply and convince the authority that no action is required to be taken against them. When that stage is still open, it will not be desirable for this Court to go into merits of the case and decide this petition accordingly. In view of the same, we direct the petitioners to file necessary reply to the said notice within a period of 3 weeks from the date of this order and upon receipt of the reply, the concerned authority may decide it within 4 weeks from the date of receipt of the reply. The MADA shall take appropriate decision in the matter, after granting adequate opportunity of hearing to the petitioners. Any two of the 9 petitioners, in a representative capacity will appear before the authority. The petitioners will decide amongst themselves, who will represent their case on behalf of them before the authority. It is further directed that till such time, the decision is taken, respondents will observe status-quo as on today. It is also directed that in case, the decision is against petitioners, the same may not be implemented for a period of further one week from the date of the order.

With the aforesaid directions, this petition is disposed of. Rule discharged. DS permitted.

(KSHITIJ R. VYAS, J.)

(AKSHAY H. MEHTA, J.)

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